

**THE MINUTES OF THE CITY COUNCIL MEETING HELD
MONDAY, JULY 18, 2011 AT 3:00 P.M.**

The Meeting was called to order at 3:00 p.m. Present: Council Vice-Chair Hornung; Council Members: Camp, Cook, Eskridge, Hornung, Snyder; City Clerk, Joan E. Ross; Absent: Carroll, Emery.

Vice-Council Chair Hornung announced that a copy of the Open Meetings Law is posted at the back of the Chamber by the northwest door. He asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

SNYDER Having been appointed to read the minutes of the City Council proceedings of July 11, 2011 reported having done so, found same correct.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

PUBLIC HEARING

APPLICATION OF OLD FEDERAL PLACE LLC DBA JASMINE ROOM FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 260 FEET AND AN OUTDOOR AREA MEASURING APPROXIMATELY 50 FEET BY 75 FEET AT 129 NORTH 10TH STREET ON SEPTEMBER 3, 10, 17; OCTOBER 8, 29; NOVEMBER 5, 25, 2011 FROM 7:00 A.M. TO 2:00 A.M. - Lisa Froelich, 129 N. 10th Street, stated this event will be to the area north of the building with the hours being the same as previous years. The residents are okay with this event and many quite often attend.

This matter was taken under advisement.

APPLICATION OF LINCOLN PUB GROUP, INC. DBA N-ZONE FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 60 FEET BY 80 FEET IMMEDIATELY ADJACENT TO ITS LICENSED PREMISES LOCATED AT 728 ½ Q STREET ON SEPTEMBER 3, 10, 17; OCTOBER 8, 29; NOVEMBER 5, 25, 2011 FROM 8:00 A.M. TO 1:00 A.M. - Todd Campfield, 6240 NW 2nd Circle, Apt. 245, came forward to answer questions.

This matter was taken under advisement.

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$1,200,000 PRINCIPAL AMOUNT OF THE CITY OF LINCOLN GENERAL OBLIGATION SPECIAL ASSESSMENT REVOLVING FUND BONDS, SERIES 2011 - Don Herz, Director of Finance, came forward to state this bond resolution is pursuant to a reimbursement resolution passed August 30, 2010 at which time it was anticipated the need to issue some special assessment bonds because of the project at 84th and Glynoaks. The sum of those projects was approximately \$1.1 million. The special assessment cash balances are fairly low as a result of transferring about \$6,000,000 to a fast forward fund and using about \$3,600,000 in cash reserve fund. As long as the bonds are being paid off there would normally be enough money to pay for those even after these two major transfers take place, however, when those major special assessment projects are approved the cash balances would be drawn down in a significant way so that's the reason these bonds are being issued at this time.

Scott Keene, Ameritas Investment Corp., came forward to answer that currently they are looking at issuing 20 year bonds and in today's market we would get about 3.75%. Hopefully, they can get to market next week to capture the low interests rates that are available right now.

This matter was taken under advisement.

AUTHORIZING THE CITY OF LINCOLN, NEBRASKA TO ENTER INTO AN EQUIPMENT LEASE PURCHASE AGREEMENT NO. LIN2011-06E WITH COMMUNITY FIRST NATIONAL BANK, MANHATTAN, KANSAS IN THE AMOUNT OF \$561,330 FOR THE ACQUISITION OF PLOW TRUCKS FOR THE USE OF THE CITY - Lauren Wismer, Gilmore & Bell, 1248 O St, Ste. 710, came forward stating they are not doing any Certificates of Participation in this case. It is a private placement with payments being made over four years and payments being due on October 1, 2015. The effective interest rate is 3.562%.

Jim Chiles, Fleet Services Superintendent for Public Works & Utilities, stated the funding for this is identified in the current years budget. This was bid through the normal bid process in Purchasing. There were a couple bids for financing with this one being the lowest.

Mr. Wismer answered that typically when the City does a lease purchase it is with the issuance of publically offered Certificates of Participation and this is not being done as it is relatively small.

This matter was taken under advisement.

AMENDING CHAPTER 5.06 OF THE LINCOLN MUNICIPAL CODE RELATING TO ARBORISTS BY AMENDING SECTIONS 5.06.010, 5.06.020, 5.06.030, 5.06.040, 5.06.050, 5.06.060, 5.06.070, 5.06.080, 5.06.090 AND 5.06.100 TO DELETE REFERENCES TO UNUSED SECOND CLASS ARBORIST CERTIFICATION FOR PEST AND DISEASE CONTROL ONLY; TO CLARIFY THAT EMPLOYEES MAY PERFORM WORK UNDER THE DIRECT SUPERVISION OF A CERTIFIED ARBORIST; TO ALLOW CERTIFICATION AND TESTING FEES TO BE ESTABLISHED AND AMENDED ADMINISTRATIVELY; TO INCREASE LIABILITY INSURANCE REQUIREMENTS FROM \$500,000 TO \$1,000,000; AND TO CLARIFY THAT INSURANCE SHOULD BE IN CATEGORIES OF TREE TRIMMING AND REMOVAL - Lynn Johnson, Director of Parks & Recreation, came forward stating this is essentially a clean-up item. This ordinance was originally established in 1963 which may have been about the time the Dutch Elm disease was here in Lincoln so that ordinance was primarily targeted toward arborists doing work on private property to make sure the property was certified and had proper insurance requirements. There was a provision that may have never been used for a Second Class Arborist certification that would allow those arborists to do some disease control. Those certifications are issued by the State. It is requested that a motion to amend be introduced that would change the liability insurance requirement from \$1,000,000 to \$600,000. Right now the ordinance is \$500,000. This section of the code refers to another section of the code which is the certifications. At some point it is anticipated the provision in that section would be increased to \$1,000,000. This work has the potential for some significant injury or significant damage to personal property. The Nebraska State Arborist Association members carry \$1,000,000 so that is where the suggestion came from. It was suggested that it read a minimum of \$600,000 in case the liability would be higher.

This matter was taken under advisement.

AMENDING SECTION 12.08.270 OF THE LINCOLN MUNICIPAL CODE RELATING TO ALCOHOLIC LIQUOR IN PARKS TO ALLOW ALCOHOL TO BE SERVED AT PINWOOD BOWL AND IN THE INDOOR PREMISES OF PIONEERS PARK NATURE CENTER AND AULD PAVILION UNDER THE CIRCUMSTANCES PROVIDED THEREIN - Lynn Johnson, Director of Parks & Recreation, came forward to state the intent is to amend the ordinances in the Lincoln Municipal Code as to liquor beverages within parks facilities. The purpose would be to be able to serve alcohol beverages at the Auld Pavilion and the Community Room at the Pioneer Park Nature Center during rental events and at Pinewood Bowl in conjunction with events and performances. The City has 70 facilities available for community rental. Last year about \$200,000 in revenue was generated from these facilities and being able to serve alcohol could generate more revenue from more rentals and increasing community use of these facilities. Alcohol in the parks is not being proposed. There has been a lot of interest from the community to be able to serve alcohol during family activities and events in conjunction to these rentals. For things that individuals or groups benefit from like facility rentals and participation in sports programs are the kinds of things they try to achieve a 100% cost recovery. Last year there were about 50 rentals at the Auld facility which generated about \$24,000 and the cost to operate that facility was \$26,000. The other proposal is regarding allowing alcoholic beverages to be served during performances at Pinewood Bowl. People wondered why there weren't more performances at Pinewood Bowl, but the people who put together the events tell us they would love to use this facility, but in putting together the finances to bring those kinds of performances to make them financially viable there has to be the revenue from alcohol sales to help make that happen. A set of rules and regulations have been drafted including that all alcoholic beverages will be served by a licensed caterer who will be responsible for serving the alcohol, moderating the consumption, and making sure the event is in compliance with the liquor laws. This will put the revenue from those sales into the private sector. There may be a limitation of the number of events at Pinewood Bowl due to the parking on the grass to protect the turf. The capacity of the bowl at Pinewood Bowl is about 3,035. Standing room only is about 5,000. The limiting factor is the parking. The Auld Center has a capacity of 200 and the Community Room at the Nature Center is about 80.

Staci Hass, 2212 S. 34th Street, speaking on behalf of GoLincolnGo as one of the primary producers of downtown community events came forward in support of alcohol sales at Pinewood Bowl events.

Monte Froelich, 129 N 10th Street, came forward as a local business owner in opposition to the 70 rental facilities having alcohol sales. Those facilities are paid for by property taxes and are in competition with the private sector.

Coby Mach, LIBA, came forward in opposition to selling alcohol at the Auld Pavilion. This would bring more income to the City, but take income away from businesses.

Julie Campbell, Director of Sales for Cornhusker-Marriott Hotel, came forward in opposition to allow alcohol sales in City Park facilities. The receptions are down every year because of the new venues already in the City and this would be taking business away from local businesses.

Tom Lorenz, General Manager of Pershing Center, came forward to state Pinewood Bowl is already setup very nicely to allow alcohol sales. There is a six foot perimeter fence around the entire outside area that would work well with the Nebraska Liquor Commission requirements. A single entrance for patrons can be checked and wrist banded, checking their ID to determine whether they have been drinking previously. They would most likely have 4 to 6 events a year. It is possible to make \$18,000 to \$22,000 for a show which is split with the promoter and less other expenses so the City could potentially get \$3,000 to \$5,000 off of a show.

Troy Terwilliger, Director of Sales at the Holiday Inn Downtown, came forward stating he feels there is a separation of venues that need to be considered. It is becoming increasingly difficult to do business for the existing businesses in Lincoln due to the increased competition. There is a problem dealing with public vs. private when it comes to wedding receptions.

Susan Coffey, 6891 A Street, came forward in opposition. She is afraid it will affect her new tenants revenue which could affect her being able to pay her real estate taxes.

Lois Delaney, representing Red9, on 3745 Mohawk Street, came forward in opposition. She stated they own two facilities, Red9 and Blue Stem Vineyard, which they have weddings booked at. A third location will be coming available for rent for receptions and different venues at which they want to serve alcohol. Pinewood Bowl would be in competition with Red9's outdoor venue that has a capacity of 1,000. There is a lot of competition in the city already.

Mike Morosin, 1500 N. 15th St., stated he feels that all serving alcohol should be required to go through the Responsible Hospitality course.

Lynn Johnson commented further that the University of Nebraska competes in this arena so there is already a public competitor. The intent is to provide a modest price for rental. The people coming to Parks & Recreation to rent facilities are very diverse in this community and may not be seen in other locations because of the moderate price and the accessibility.

This matter was taken under advisement.

AMENDING SECTION 10.14.450 OF THE LINCOLN MUNICIPAL CODE RELATING TO OBSTRUCTING THE VIEW OF A DRIVER BY ADDING A PHRASE TO SPECIFY WHAT CONSTITUTES AN OBSTRUCTION, TO REDUCE ENFORCEMENT TO A SECONDARY VIOLATION TO HARMONIZE THE SECTION WITH STATE STATUTE AMENDMENTS, AND TO ESTABLISH MINIMUM FINES FOR VIOLATIONS OF THE SECTION; REPEALING SECTION 10.14.450 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING; AND ESTABLISHING AN EFFECTIVE DATE OF AUGUST 24, 2011, TO COINCIDE WITH THE EFFECTIVE DATE OF THE STATE STATUTE AMENDMENTS - Rod M. Confer, City Attorney, came forward to explain the State of Nebraska amended it's statute that deals with obstruction of a driver's vision. The City of Lincoln has an ordinance that prohibits things hanging from a person's mirror. Under the State Statute it prohibits significantly impairing a drivers vision and requires that this only be a secondary offense meaning the officer cannot pull a person over for having something hanging from their mirror unless they are citing them for another primary violation. The State Statute goes into effect in August so this will also go into effect in August under the amendment. It would not apply to parking hang tags.

This matter was taken under advisement.

CHANGE OF ZONE 11021 - APPLICATION OF FIRST APOSTOLIC CHURCH TO DESIGNATE THE PROPERTY AT 3935 RANDOLPH STREET AS A HISTORIC LANDMARK - Marvin Krout, Director of Planning, stated this is the former St. James Lutheran Church located on the South side of Randolph Street near 40th Street. It is a transitional property between Runza at the corner and basically residential uses in the other directions. It is 80 years old, has important neighborhood association, and the Preservation Commission thought it deserved landmark treatment. One of the advantages of being declared a local landmark in Lincoln is that it qualifies you for a special permit. In this case the special permit is a request to waive the normal uses of the parking standards that would otherwise be permitted in the R-2 District. A perspective purchaser has a use for this property that would involve a commercial catering operation with very few employees and no customers on site. It will be a low intensity use. The Preservation Commission, the 40th and A Street Neighborhood Association, and Planning Commission recommended the special permit be approved. Only the City Council can designate the landmark that would make the special permit effective.

This matter was taken under advisement.

REGULAR MEETING

July 18, 2011

Page 372

CHANGE OF ZONE 11022 - AMENDING SECTION 27.61.100 OF THE LINCOLN MUNICIPAL CODE RELATING TO EXPANSION OF NONSTANDARD SINGLE- AND TWO-FAMILY DWELLINGS INTO REQUIRED YARDS TO ALLOW THE ENLARGEMENT, EXTENSION, OR RECONSTRUCTION OF THE MAIN BUILDING USED FOR A SINGLE- OR TWO-FAMILY DWELLING AND ACCESSORY BUILDINGS CONSIDERED PART OF THE MAIN BUILDING IN THE R-1 THROUGH R-8 RESIDENTIAL ZONING DISTRICTS - Marvin Krout, Director of Planning, came forward to explain the Lincoln Municipal Code wording says you can enlarge was interpreted that you could not remove and reconstruct in exactly the same location. The intent was to reconstruct as well as enlarge so that it is to be included in the code which will not require a special permit nor the delay and cost associated with that. This matter was taken under advisement.

VACATION 11007 - VACATING A PORTION OF S STREET, A PORTION OF NORTH 6TH STREET AND A PORTION OF THE EAST-WEST ALLEY OF BLOCK 270, ORIGINAL PLAT OF LINCOLN; AND A PORTION OF T STREET AND A PORTION OF THE EAST-WEST ALLEY IN BLOCK 281, ORIGINAL PLAT OF LINCOLN - Marvin Krout, Director of Planning, came forward stating this is a request from JPA to vacate old rights-of-way of streets and alleys located on the very site of the West Haymarket Arena. There is no necessity to keep the easements for utilities so JPA is asking to vacate this right-of-way. This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS PCS TO LOCATE A COMMUNICATION FACILITY ON PROPERTY GENERALLY LOCATED AT 56TH STREET AND PINE LAKE ROAD - Rod M. Confer, City Attorney, came forward to state this is a renewal of an existing license at this location. It is south of 56th Street on City owned property. This matter was taken under advisement.

APPROVING THE FISCAL YEAR 2011 ACTION PLAN: ONE YEAR USE OF FUNDS FOR HUD ENTITLEMENT PROGRAMS - Wynn Hjermstad, Community Development Manager for Urban Development, came forward to ask approval of the Annual Action Plan. This plan is required by the US Department of Housing and Urban Development (HUD) which includes how the City plans to use federal funds received. There are two types of funds, Community Development Block Grant (CDBG) or HOME Funds. Lincoln is an entitlement city that means because of the size and demographics Lincoln is entitled to these funds which do not have to be applied for. HUD is to be notified how the funds are going to be used and get their approval. The heavy listing was done on this last year when doing the three year strategic plan, a HUD requirement, and this is the second year of that three year plan. The HUD mandate includes three statutory requirements providing decent housing, providing suitable living environment and expanded economic opportunity benefitting low and moderate income people or low and moderate income areas. This is done in Housing and Community Development areas. They are involved in homelessness which is a HUD mandate of which no funding is provided other than staff time. Federal cutbacks make it difficult. CDBG was cut 17% and will receive about \$1,500,000 this year and HOME cut by about 12% will receive a little over \$1,000,000. The majority of funding goes to housing programs, about \$2,700,000 for housing, and about \$370,000 for community development projects. Affordable housing is the number one issue when talking to people in the community. The housing programs provide the City with program income that continues to help fund additional programs as well as offset some of the cuts. With the Council's approval the plans will be submitted to HUD on Thursday. Steve Werthmann, Housing Rehabilitation and Real Estate Manager for Urban Development, stated the housing programs will continue as usual. Housing rehabilitation programs in-house in Urban Development are used to keep low to moderate income owners in their houses. They are given loans to do repairs and rehabilitation to keep them in their houses. Urban Development will continue to work with NeighborWorks Lincoln who administers the First Home Buyers program which is a down payment assistance program. The First Mortgage product from individual banks supply the actual purchase of it. NeighborWorks also provides a homebuyer training class and has a troubled property program which Urban Development funds with its HOME money saving individual houses in the older neighborhoods. They help Habitat for Humanity buy individual lots so they can continue to do their volunteer builds. They work with the League of Human Dignity on handicap accessibility issues. They also work with a smaller non-profit affordable housing initiative using the HOME fund to buy houses fixing them up then selling them to first time home buyers. This matter was taken under advisement.

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING TO REPLACE EXISTING PEDESTRIAN SIGNAL HEADS WITH COUNTDOWN-STYLE PEDESTRIAN SIGNAL HEADS. CITY PROJECT NO. 701076. STATE PROJECT NO. HSIP 5239(7), CN 12927 - Thomas Shafer, Public Works Engineering Services, stated this is an update of a previous agreement that the Council has already signed. Since then the Department of Roads has had several changes in procedures in how they let projects so we have been asked to sign a new agreement that would allow them to let this project.

Erin Sokolik, Public Works Engineering Services, answered that this is addressing those Countdown Pedestrian programs. This will allow funding to do 130 locations around the City. Some of the locations on the list have LED's that can be moved otherwise, but are not necessarily the countdown style. They would be converted to the LED and the countdown style. This will then be about 80 to 90% completed throughout the city.

Mr. Shafer stated the State will bid this for the City. When the State is providing funds they want to oversee more directly.

This matter was taken under advisement.

SPECIAL PERMIT 11014 - APPLICATION OF WILLIAM AND MYRNA WOOD TO REDUCE THE SIDE YARD SETBACK TO 0 FEET TO ALLOW USE OF THE EAST SIDE YARD FOR AN EGRESS STAIR FROM THE THIRD FLOOR ON PROPERTY GENERALLY LOCATED AT 720 S. 16TH STREET - William J. Wood, 808 D Street, came forward as one of the applicants to answer questions. He stated this has been to the Historical Preservation Commission and to the Planning Commission. The neighbors are in agreement with it. This will be utilized as a sorority. There will be approximately 17 or 18 residents plus a housemother. The parking meets the parking requirements for a sorority which is one parking space for each 1100 sq. ft. so six spaces are required and will be on the north side of the building. Additional parking may be on the street. The location of the building is across from the State Capitol.

Marvin Krout, Director of Planning, came forward to answer the question of using the third floor and parking. To use the 3rd floor will require an additional egress. The purpose of this is to waive the side yard requirement in order to provide the egress and have the stairway in the middle. They do meet the parking requirement in the R-7 District. It is a 5600 sq. ft. building. The immediate adjacent owner to this use is supportive of this request. There was one property owner in the record indicating they are opposed.

This matter was taken under advisement.

COUNCIL ACTION

REPORTS OF CITY OFFICERS

APPOINTING THOMAS HIGLEY TO THE CABLE TELEVISION ADVISORY BOARD FOR A THREE YEAR TERM EXPIRING JULY 1, 2014 - CLERK read the following resolution, introduced by Doug Emery, moved by Jonathan Cook for adoption:

A-86410 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the appointment of Thomas Higley to the Cable Television Advisory Board for a three-year term expiring July 1, 2014 is hereby approved.

Introduced by Doug Emery

Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

REPORT OF SETTLEMENT OF NON TORT CLAIMS - CLERK presented said report which was placed on file in the Office of the City Clerk.

PETITIONS & COMMUNICATIONS

PLACED ON FILE IN THE OFFICE OF THE CITY CLERK:

Administrative Amendment No. 11016 to Special Permit No. 605, Tierra West Community Unit Plan, approved by the Planning Director on July 5, 2011, requested by Hutchinson Architects, PC., to increase the number of dwelling units on the R-3 zoned parcel at the southeast corner of S. 27th St. and Tierra Dr. from 72 to 103.

REFERRED TO PLANNING DEPARTMENT:

CHANGE OF ZONE NO. 11025, requested by the Director of Planning, amending Section 27.35.020 of the Lincoln Municipal Code relating to Permitted Uses in the B-4 Lincoln Center Business District to prohibit sexually oriented live entertainment establishments in all areas of the B-4 zoning district; and repealing Section 27.35.020 of the Lincoln Municipal Code as hitherto existing.

SPECIAL PERMIT NO. 1114E, requested by Heritage Builders, Inc., for an amendment to the Pheasant Run Addition Community Unit Plan, relating to the construction and location of the sidewalk along Pheasant Run Lane, on property legally described as Outlot B, and Lots 2-7, Block 1, Pheasant Run Addition; Outlot B, and Lots 2-9, Pheasant Run 1st Addition; Lot 1, Pheasant Run 2nd Addition; Lot 1, Pheasant Run 3rd Addition; Lots 2-4, Pheasant Run 4th Addition; Lots 1 and 2, Pheasant Run 5th Addition; Outlot A, Lots 1-6, Block 1, and Lots 1-3, Block 2, Pheasant Run 7th Addition; Outlots A, B, and C, Pheasant Run 8th Addition; Lot 3 Pheasant Run 9th Addition; and Lots 1 and 2, Pheasant Run 10th Addition; all located in the SE 1/4 of Section 9-9-7, Lancaster County, Nebraska, generally located at Old Cheney Road and Pheasant Run Lane. The Planning Commission action is final action, unless appealed to the City Council.

SPECIAL PERMIT NO. 11019, requested by Blue Blood Brewing Company, Inc., for a craft brewery under the special permit for I-1 District, on property legally described as Lots 1 and 12, Block 2, South Street Business Park Addition, located in the NE 1/4 of Section 34-10-6, Lancaster County, Nebraska, generally located at SW 5th Street and W. South Street. The Planning Commission action is final action, unless appealed to the City Council.

SETTING THE HEARING DATE OF MONDAY, AUGUST 1, 2011 AT 3:00 P.M. FOR APPLICATION OF CHATTERS LLC DBA MAIN STREET CAFÉ FOR A CLASS IK LIQUOR LICENSE AT 1325 O STREET - CLERK read the following resolution, introduced by Carl Eskridge, who moved its adoption:

A-86411 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., August 1, 2011 at 3:00 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for Application of Chatters LLC dba Main Street Café for a Class IK liquor license at 1325 O Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Carl Eskridge

Seconded by Snyder & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

MISCELLANEOUS REFERRALS - NONE

LIQUOR RESOLUTIONS

APPLICATION OF GNS CORPORATION DBA DISCOUNT CITY FOR THE ADDITION OF A CATERING LICENSE TO ITS CLASS D LIQUOR LICENSE AT 5560 SOUTH 48TH STREET, SUITE 6 - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86412 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinance, the City Council recommends that the application of GNS Corporation dba Discount City for the issuance of a Catering Permit to the existing Class D liquor license, located at 5560 South 48th Street, Suite 6, Lincoln, Nebraska, be approved with the condition that the premises complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

APPLICATION OF OLD FEDERAL PLACE LLC DBA JASMINE ROOM FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 27 FEET BY 260 FEET AND AN OUTDOOR AREA MEASURING APPROXIMATELY 50 FEET BY 75 FEET AT 129 NORTH 10TH STREET ON SEPTEMBER 3, 10, 17; OCTOBER 8, 29; NOVEMBER 5, 25, 2011 FROM 7:00 A.M. TO 2:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86413 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Old Federal Place LLC dba Jasmine Room for a Special Designated License to cover an area measuring approximately 27 feet by 260 feet and an area measuring approximately 50 feet by 75 feet adjacent to its licensed premises located at 129 North 10th Street, Lincoln, Nebraska, on September 3, 10, 17; October 8, 29; November 5, 25, 2011 between the hours of 7:00 a.m. and 2:00 a.m., be approved with the

condition that the premises complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. Any food sold shall be provided by a licensed and inspected establishment.
6. All tenant parking must remain available on the premises.

Introduced by Jon Camp

Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

APPLICATION OF LINCOLN PUB GROUP, INC. DBA N-ZONE FOR A SPECIAL DESIGNATED LICENSE COVERING AN OUTDOOR AREA MEASURING APPROXIMATELY 60 FEET BY 80 FEET IMMEDIATELY ADJACENT TO ITS LICENSED PREMISES LOCATED AT 728 ½ Q STREET ON SEPTEMBER 3, 10, 17; OCTOBER 8, 29; NOVEMBER 5, 25, 2011 FROM 8:00 A.M. TO 1:00 A.M. - CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-86414 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Lincoln Pub Group, Inc. dba N-Zone for a Special Designated License to cover an area measuring approximately 60 feet by 80 feet immediately adjacent to its licensed premises located at 728 ½ Q Street, Lincoln, Nebraska, on September 3, 10, 17; October 8, 29; November 5, 25, 2011 between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the premises complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.
5. Any food sold shall be provided by a licensed and inspected establishment.

Introduced by Jon Camp

Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

ORDINANCE - 2ND READING & RELATED RESOLUTIONS (as required)

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$1,200,000 PRINCIPAL AMOUNT OF THE CITY OF LINCOLN GENERAL OBLIGATION SPECIAL ASSESSMENT REVOLVING FUND BONDS, SERIES 2011 - CLERK read an ordinance, introduced by Jayne Snyder, authorizing and directing the issuance, sale, and delivery of \$1,200,000 principal amount of General Obligation Special Assessment Revolving Fund Bonds, Series 2011, of the City of Lincoln, Nebraska; prescribing the form and details of such bonds; providing for the levy and collection of an annual tax for the purpose of paying the principal of and interest on such bonds as they become due; and authorizing certain other documents and actions in connection therewith, the second time.

AUTHORIZING THE CITY OF LINCOLN, NEBRASKA TO ENTER INTO AN EQUIPMENT LEASE PURCHASE AGREEMENT NO. LIN2011-06E WITH COMMUNITY FIRST NATIONAL BANK, MANHATTAN, KANSAS IN THE AMOUNT OF \$561,330 FOR THE ACQUISITION OF PLOW TRUCKS FOR THE USE OF THE CITY - CLERK read an ordinance, introduced by Doug Emery, authorizing and approving Equipment Lease Purchase Agreement No. LIN2011-06E with Community First National Bank for plow trucks in the amount of \$561,330.00 and an escrow agreement; and related matters, the second time.

AMENDING CHAPTER 5.06 OF THE LINCOLN MUNICIPAL CODE RELATING TO ARBORISTS BY AMENDING SECTIONS 5.06.010, 5.06.020, 5.06.030, 5.06.040, 5.06.050, 5.06.060, 5.06.070, 5.06.080, 5.06.090 AND 5.06.100 TO DELETE REFERENCES TO UNUSED SECOND CLASS ARBORIST CERTIFICATION FOR PEST AND DISEASE CONTROL ONLY; TO CLARIFY THAT EMPLOYEES MAY PERFORM WORK UNDER THE DIRECT SUPERVISION OF A CERTIFIED ARBORIST; TO ALLOW CERTIFICATION AND TESTING FEES TO BE ESTABLISHED AND AMENDED ADMINISTRATIVELY; TO INCREASE LIABILITY INSURANCE REQUIREMENTS FROM \$500,000 TO \$1,000,000; AND TO CLARIFY THAT INSURANCE SHOULD BE IN CATEGORIES OF TREE TRIMMING AND REMOVAL - CLERK read an ordinance, introduced by Doug Emery, amending Chapter 5.06 of the Lincoln Municipal Code relating to Arborists by amending Sections 5.06.010, 5.06.020, 5.06.030, 5.06.040, 5.06.050, 5.06.060, 5.06.070, 5.06.080, 5.06.090 and 5.06.100

REGULAR MEETING

July 18, 2011

Page 376

to delete references to unused second class arborist certification for pest and disease control only; to clarify that employees may perform work under the direct supervision of a certified arborist; to allow certification and testing fees to be established and amended administratively; to increase liability insurance requirements from \$500,000 to \$1,000,000; and to clarify that insurance should be in categories of tree trimming and removal; and repealing Sections 5.06.010, 5.06.020, 5.06.030, 5.06.040, 5.06.050, 5.06.060, 5.06.070, 5.06.080, 5.06.090 and 5.06.100 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTION 12.08.270 OF THE LINCOLN MUNICIPAL CODE RELATING TO ALCOHOLIC LIQUOR IN PARKS TO ALLOW ALCOHOL TO BE SERVED AT PINWOOD BOWL AND IN THE INDOOR PREMISES OF PIONEERS PARK NATURE CENTER AND AULD PAVILION UNDER THE CIRCUMSTANCES PROVIDED THEREIN - CLERK read an ordinance, introduced by Doug Emery, amending Section 12.08.270 of the Lincoln Municipal Code relating to alcoholic liquor in parks to allow alcohol to be served at Pinewood Bowl and in the indoor premises of Pioneers Park Nature Center and Auld Pavilion under the circumstances provided therein; and repealing Section 12.08.270 of the Lincoln Municipal Code as hitherto existing, the second time.

AMENDING SECTION 10.14.450 OF THE LINCOLN MUNICIPAL CODE RELATING TO OBSTRUCTING THE VIEW OF A DRIVER BY ADDING A PHRASE TO SPECIFY WHAT CONSTITUTES AN OBSTRUCTION, TO REDUCE ENFORCEMENT TO A SECONDARY VIOLATION TO HARMONIZE THE SECTION WITH STATE STATUTE AMENDMENTS, AND TO ESTABLISH MINIMUM FINES FOR VIOLATIONS OF THE SECTION; REPEALING SECTION 10.14.450 OF THE LINCOLN MUNICIPAL CODE AS HITHERTO EXISTING; AND ESTABLISHING AN EFFECTIVE DATE OF AUGUST 24, 2011, TO COINCIDE WITH THE EFFECTIVE DATE OF THE STATE STATUTE AMENDMENTS - CLERK read an ordinance, introduced by Doug Emery, amending Section 10.14.450 of the Lincoln Municipal Code relating to obstructing the view of a driver by adding a phrase to specify what constitutes an obstruction, to reduce enforcement to a secondary violation to harmonize the section with state statute amendments, and to establish minimum fines for violations of the section; repealing Section 10.14.450 of the Lincoln Municipal Code as hitherto existing; and establishing an effective date of August 24, 2011, to coincide with the effective date of the state statute amendments, the second time.

CHANGE OF ZONE 11021 - APPLICATION OF FIRST APOSTOLIC CHURCH TO DESIGNATE THE PROPERTY AT 3935 RANDOLPH STREET AS A HISTORIC LANDMARK - CLERK read an ordinance, introduced by Doug Emery, amending the City of Lincoln Zoning District Map attached to and made a part of Title 27 of the Lincoln Municipal Code by designating certain property as a Landmark, the second time.

CHANGE OF ZONE 11022 - AMENDING SECTION 27.61.100 OF THE LINCOLN MUNICIPAL CODE RELATING TO EXPANSION OF NONSTANDARD SINGLE- AND TWO-FAMILY DWELLINGS INTO REQUIRED YARDS TO ALLOW THE ENLARGEMENT, EXTENSION, OR RECONSTRUCTION OF THE MAIN BUILDING USED FOR A SINGLE- OR TWO-FAMILY DWELLING AND ACCESSORY BUILDINGS CONSIDERED PART OF THE MAIN BUILDING IN THE R-1 THROUGH R-8 RESIDENTIAL ZONING DISTRICTS - CLERK read an ordinance, introduced by Doug Emery, amending Section 27.61.100 of the Lincoln Municipal Code relating to Expansion of Nonstandard Single- and Two-family Dwellings Into Required Yards to allow the enlargement, extension, or reconstruction of the main building used for a single- or two-family dwelling and accessory buildings considered part of the main building in the R-1 through R-8 Residential Zoning Districts; and repealing Section 27.61.100 of the Lincoln Municipal Code as hitherto existing, the second time.

VACATION 11007 - VACATING A PORTION OF S STREET, A PORTION OF NORTH 6TH STREET AND A PORTION OF THE EAST-WEST ALLEY OF BLOCK 270, ORIGINAL PLAT OF LINCOLN; AND A PORTION OF T STREET AND A PORTION OF THE EAST-WEST ALLEY IN BLOCK 281, ORIGINAL PLAT OF LINCOLN - CLERK read an ordinance, introduced by Doug Emery, vacating a portion of S Street, a portion of N. 6th Street and a portion of the east-west alley in Block 270, Original Lincoln; a portion of T Street and a portion of the east-west alley in Block 281, Original Lincoln; and retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the second time.

APPROVING AN AGREEMENT BETWEEN THE CITY AND NEW CINGULAR WIRELESS PCS TO LOCATE A COMMUNICATION FACILITY ON PROPERTY GENERALLY LOCATED AT 56TH STREET AND PINE LAKE ROAD - CLERK read an ordinance, introduced by Doug Emery, accepting and approving the Agreement for Tower Space and Appurtenances between the City of Lincoln, Nebraska, a municipal corporation, and New Cingular Wireless PCS, LLC for the placement of telecommunications facilities upon City property generally located at 56th and Pine Lake Road and authorizing the Mayor to sign such Agreement on behalf of the City, the second time.

PUBLIC HEARING - RESOLUTIONS

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY AND APPROVING DISPOSITION OF CLAIMS SET FORTH FOR THE PERIOD OF JUNE 16 - 30, 2011 - CLERK read the following resolution, introduced by Doug Emery, moved by Jayne Snyder for its adoption:

A-86415 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That the claims listed in the attached report, marked as Exhibit "A", dated July 1, 2011, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED CLAIMS</u>		<u>ALLOWED/SETTLED CLAIMS</u>	
Robert Bruckner	\$ 1,198.29	James Buckles	\$1,007.00
Linda Van Meter	533.00	Erick & Jamie Russell	871.00
		Jim Oliver	3,783.59
		Shane Alley	387.95
<u>WITHDRAWN CLAIM</u>		Carroll Smith	6,800.00
Amanda Wagner & Shane Alley	\$351,000.00	Caleb Pletter	700.00
		Nick Ross	1,750.00
		Streeter Plumbing/Jeffrey Hall	6,250.00
		Marty Steinhausen	326.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Doug Emery

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

APPROVING THE FISCAL YEAR 2011 ACTION PLAN: ONE YEAR USE OF FUNDS FOR HUD ENTITLEMENT PROGRAMS - Prior to reading:

COOK Moved to amend Bill No. 11R-156 in the following manner:
1. On page 1, line 21, delete the amount of \$2,540,213 and insert in lieu thereof the amount of \$2,662,586.
2. On page 1, line 22, delete the amount of \$1,475,498 and insert in lieu thereof the amount \$1,597,871.

Seconded by Snyder & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

CLERK Read the following resolution, introduced by Doug Emery, moved by Carl Eskridge for its adoption:

A-86416 WHEREAS, the City of Lincoln, Nebraska, acting by and through the Mayor as the Chief Executive Officer and the City Council as the Legislative body of this City, with full citizen participation with reference thereto and in full compliance with the U.S. Department of Housing and Urban Development requirements, has prepared the City of Lincoln FY 2011 Second Program Year Action Plan outlining the activities and initiatives of Urban Development for CDBG and HOME entitlement funds from HUD Entitlement Programs under the provisions of 24 C.F.R., Part 91, et al.; and

WHEREAS, such plan includes the proposed community development activities and community development objectives, all prepared in full compliance with the requirements, instructions, and recommendations contained in the Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations; and

WHEREAS, such plan and the items contained therein and each of them appear to be in the best interest of the City of Lincoln, Nebraska; and

WHEREAS, certain assurances must be incorporated into the City of Lincoln's FY 2011 Action Plan, as prescribed in the Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations and 24 C.F.R., Part 91.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the FY 2011 Action Plan, a copy of which is attached hereto, is hereby approved and the Mayor is authorized to submit the FY 2011 Action Plan to the Department of Housing and Urban Development for total grants for Fiscal Year 2011 in the amount of ~~\$2,540,213~~ \$2,662,586 (~~\$1,475,498~~ \$1,597,871 CDBG and \$1,064,715 HOME) under the provisions of Title I of the Housing and Community Development Act of 1974, as amended, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, Title IV of Subtitle B of the Stewart B. McKinney Homeless Assistance Act of 1988, as amended, and each and every item included therein is hereby approved. The Mayor and other City officials charged with responsibilities pertinent to the proposed certifications are hereby authorized to execute said certifications for and on behalf of the City of Lincoln, Nebraska, and the Mayor is hereby authorized and directed to execute said statement for and on behalf of the City of Lincoln, Nebraska, to submit same to the Secretary of Housing and Urban Development, or his designate, in the form and substance as required by the

Community Development Block Grant Regulations and HOME Investment Partnerships Act Regulations, and to supplement such Action Plan in any way reasonably required by the Department of Housing and Urban Development to expedite approval of the same.

BE IT FURTHER RESOLVED that the City of Lincoln, Nebraska, hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements of Federal Management Circulars 74-4 and 74-7 and OMB Circular A-87 and 24 Code of Federal Regulations, Part 85, as they relate to the Action Plan, acceptance and use of Federal funds for the City's federally-assisted programs.

BE IT FURTHER RESOLVED that the City of Lincoln, Nebraska hereby assures and certifies with respect to the FY 2011 Action Plan that:

1. The City will affirmatively further fair housing.
2. The City has in effect and is following a residential anti-displacement and relocation assistance plan.
3. The City will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an ongoing drug-free awareness program to inform employees about -
 - i. The dangers of drug abuse in the workplace;
 - ii. The grantee's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by subparagraph (1);
 - d. Notifying the employee in the statement required by subparagraph (a) that, as a condition of employment under the grant, the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.ii. from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designated on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.ii., with respect to any employee who is so convicted -
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
 - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs a, b, c, d, e, and f.
4. The City will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms if required by that part. The City further certifies that to the best of the City's knowledge and belief:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence any officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal

contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. The City will require that the language of paragraph 4 of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

5. The City possesses legal authority under state and local law to make a grant submission and to carry out the proposed community development and housing program for which it is seeking funding in accordance with applicable HUD regulations. By passage of this resolution, the Mayor, as the official representative of the City of Lincoln is hereby authorized to submit the Action Plan, including all the understandings and assurances contained therein. Further the Mayor is hereby directed and authorized to act in connection with the submission of the Action Plan and to provide such additional information as may be required.

6. The housing activities to be undertaken with CDBG and HOME funds are consistent with the City's strategic plan.

7. The City will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 C.F.R. § 570.606(b) and Federal implementing regulations; and the requirements in 24 C.F.R. § 570.606(c) governing the residential antidisplacement and relocation assistance plan under Section 104(d) of the Act (including a certification that the grantee is following such a plan); and the relocation requirements of 24 C.F.R. § 570.606(d) governing optional relocation assistance under Section 105(a)(11) of the Act.

8. The City will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135.

BE IT FURTHER RESOLVED that the City of Lincoln hereby assures and certifies with respect to the Community Development Block Grant program portion of the FY 2011 Action Plan that:

1. The City is in full compliance and following a detailed citizen participation plan that satisfies the requirement of 24 CFR § 91.105 and which:

a. Provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low and moderate income neighborhoods as defined by the City;

b. Provides citizens with reasonable and timely access to local meetings, information, and records relating to the City's proposed use of funds, as required by the regulations of the Secretary, and relating to the actual use of funds under the Act;

c. Provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

d. Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

e. Provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

f. Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;

2. The City's strategic housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been in accordance with the primary objective of the statute authorizing the CDBG Program, as described in 24 CFR 570.2 and the requirements of 24 CFR Part 91 Subpart C and 24 CFR Part 570.

3. The City is following a current HUD approved consolidated plan.

4. The City has developed its final statement of projected use of funds so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight; (the final statement of projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available); except that the aggregate use of CDBG funds received under Section 106 of the Act and, if applicable, under Section 108 of the Act, during program year 2008 shall principally benefit persons of low and moderate income in a manner that

ensures that not less than 70 percent of such funds are used for activities that benefit such persons during such period.

The City will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under Section 106 of the Act or with amounts resulting from a guarantee under Section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

a. Funds received under Section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or

b. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the City certifies to the Secretary that it lacks sufficient funds received under Section 106 of the Act to comply with the requirements of subparagraph (1) above.

5. The City has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

6. The City will conduct and administer the grant in compliance with Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. 2000d et seq.), the Fair Housing Act (42 U.S.C. 3601-19), and implementing regulations.

7. The City's notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 C.F.R. § 570.608.

8. The City will comply with all applicable law.

BE IT FURTHER RESOLVED that the City of Lincoln hereby assumes and certifies with respect to the HOME program portion of the FY 2011 Action Plan that:

1. The City is using and will use HOME funds for eligible activities and costs, as described in §§ 92.205 through 92.209 of 24 C.F.R., Subtitle A, and that it is not using and will not use HOME funds for prohibited activities, as described in § 92.214 of 24 C.F.R. Subtitle A;

2. Before committing funds to a project, the City will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

Introduced by Doug Emery

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

APPROVING A FUNDING AGREEMENT BETWEEN THE CITY OF LINCOLN AND THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO ALLOW THE USE OF FEDERAL TRANSPORTATION PROGRAM FUNDS FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING TO REPLACE EXISTING PEDESTRIAN SIGNAL HEADS WITH COUNTDOWN-STYLE PEDESTRIAN SIGNAL HEADS. CITY PROJECT NO. 701076. STATE PROJECT NO. HSIP 5239(7), CN 12927 - CLERK read the following resolution, introduced by Doug Emery, moved by Jayne Snyder for its adoption:

A-86417 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for the use of Federal Transportation Program Funds for construction and construction engineering to replace existing pedestrian signal heads with countdown style pedestrian signal heads, Project No. HSIP-5239(7), in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to Engineering Services Division of the Department of Public Works & Utilities, for transmittal and execution by the State Department of Roads.

Introduced by Doug Emery

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

SPECIAL PERMIT 11014 - APPLICATION OF WILLIAM AND MYRNA WOOD TO REDUCE THE SIDE YARD SETBACK TO 0 FEET TO ALLOW USE OF THE EAST SIDE YARD FOR AN EGRESS STAIR FROM THE THIRD FLOOR ON PROPERTY GENERALLY LOCATED AT 720 S. 16TH STREET - CLERK read the following resolution, introduced by Doug Emery, moved by Jayne Snyder for its adoption:

A-86418 WHEREAS, William J. and Myrna L. Wood have submitted an application designated as Special Permit No. 11014 to allow the preservation of an historic structure by adjusting the side yard requirements for an egress stair from the third floor on property located at 720 South 16th Street, and legally described as:

Lots 7, 8 and the west 5 feet of Lot 9, Block 153, Original Plat
of Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan
for this use of an historic landmark and adjustment of the side yard requirements
will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter
set forth are consistent with the intent and purpose of Title 27 of the Lincoln
Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln,
Nebraska:

That the application of William J. and Myrna L. Wood, hereinafter referred to
as "Permittee", to allow the preservation of an historic structure known as the
Yates House for residential use as a sorority by adjusting the required side yard to
allow a zero foot side yard on the east side of the Yates House rather than the 5
feet required in the R-7 district, on the property legally described above, be and
the same is hereby granted under the provisions of Section 27.63.400 of the Lincoln
Municipal Code upon condition that construction and operation of said use of an
historic building be in substantial compliance with said application, the site plan,
and the following additional express terms, conditions, and requirements:

1. This permit approves an adjustment of the required side yard on the
east side of historic site known as the Yates House from five feet to zero feet to
allow an egress stair from the third floor.
2. Any modifications to the building exteriors or to the site plan must
be submitted and approved for a Certificate of Appropriateness by the Preservation
Commission.
3. Before occupying the improvement all development and construction
shall substantially comply with the approved plans.
4. All privately-owned improvements shall be permanently maintained by
the Permittee.
5. The physical location of all setbacks and yards, buildings, parking
and circulation elements, and similar matters must be in substantial compliance with
the location of said items as shown on the approved site plan.
6. The terms, conditions, and requirements of this resolution shall run
with the land and be binding and obligatory upon the Permittee and the Permittee's
successors and assigns.
7. The Permittee shall sign and return the letter of acceptance to the
City Clerk within 30 days following the approval of the special permit, provided,
however, said 30-day period may be extended up to six months by administrative
amendment. The Clerk shall file a copy of the resolution approving the special
permit and the letter of acceptance with the Register of Deeds, filing fees therefor
to be paid in advance by the Permittee.
8. The site plan as approved with this resolution voids and supersedes
all previously approved site plans and special permits for this property.

Introduced by Doug Emery

Seconded by Eskridge & carried by the following vote: AYES: Camp,
Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

ORDINANCES - 1ST READING & RELATED RESOLUTIONS (as required)

STREET NAME CHANGE 11003 - RENAMING THAT PORTION OF NORTH 90TH STREET BETWEEN LEIGHTON
AVENUE AND BROKEN SPOKE DRIVE AS "CEDAR COVE ROAD" LOCATED IN CEDAR COVE ADDITION -
CLERK read an ordinance, introduced by Carl Eskridge, changing the name of the
portion of North 90th Street located between Leighton Avenue and Broken Spoke Drive
in Cedar Cove Addition to Cedar Cove Road, as recommended by the Street Name
Committee, the first time.

AMENDING CHAPTER 8.44 OF THE LINCOLN MUNICIPAL CODE RELATING TO WATER WELLS BY AMENDING
SECTION 8.44.010 TO ADD, DELETE AND REVISE DEFINITIONS USED WITHIN THE CHAPTER;
AMENDING SECTION 8.44.020 TO CLARIFY THE PURPOSES OF THIS CHAPTER; AMENDING SECTION
8.44.030 REGARDING THE PERMITTED USE OF WATER WELLS; REPEALING SECTION 8.44.040,
TEMPORARY PERMIT FOR DOMESTIC USE OF NEW WATER WELL - WHEN REQUIRED; AMENDING
SECTION 8.44.050 REGARDING WHO IS AUTHORIZED IN CONSTRUCTION OR REPAIR OF WATER
WELLS AND WHAT PERMITS ARE REQUIRED; AMENDING SECTION 8.44.060 TO REQUIRE PERMITS
FOR MAINTAINING AND USING WATER WELLS EVERY YEAR; AMENDING SECTION 8.44.070 TO
CLARIFY FEES AND REFUNDS AND FILING OF THE PERMIT; AMENDING SECTION 8.44.075 TO
CHANGE PERMIT FEE REFERENCES FROM BIENNIAL TO ANNUAL; AMENDING SECTION 8.44.080 TO
CLARIFY APPEAL REQUIREMENTS; AMENDING SECTION 8.44.100 TO CLARIFY NOTICE AND
PROCEDURE TO DECOMMISSION A WATER WELL; AMENDING SECTION 8.44.110 TO CLARIFY
PERMITTED USE OF WATER WELLS WITHIN THE CITY LIMITS; AMENDING SECTION 8.44.120 TO
CLARIFY DECOMMISSIONING OF A WELL BY THE DIRECTOR; AND ADDING A NEW SECTION NUMBERED
8.44.130 TO PROVIDE ENFORCEMENT AND PENALTY PROVISIONS FOR VIOLATIONS OF CHAPTER
8.44 - CLERK read an ordinance, introduced by Carl Eskridge, amending Chapter 8.44
of the Lincoln Municipal Code relating to water wells by amending Section 8.44.010

to add, delete and revise definitions used within the chapter; amending Section 8.44.020 to clarify the purposes of this chapter; amending Section 8.44.030 regarding the permitted use of water wells; repealing Section 8.44.040, Temporary Permit for Domestic Use of New Water Well - When Required; amending Section 8.44.050 regarding who is authorized in construction or repair of water wells and what permits are required; amending Section 8.44.060 to require permits for maintaining and using water wells every year; amending Section 8.44.070 to clarify fees and refunds and filing of the permit; amending Section 8.44.075 to change permit fee references from biennial to annual; amending Section 8.44.080 to clarify appeal requirements; amending Section 8.44.100 to clarify notice and procedure to decommission a water well; amending Section 8.44.110 to clarify permitted use of water wells within the city limits; amending Section 8.44.120 to clarify decommissioning of a well by the director; and adding a new section numbered 8.44.130 to provide enforcement and penalty provisions for violations of Chapter 8.44, the first time.

AMENDING SECTION 3.24.080 OF THE LINCOLN MUNICIPAL CODE RELATING TO THE TELECOMMUNICATION OCCUPATION TAX TO FURTHER CLARIFY THAT STATE UNIVERSAL SERVICE FUND FEES HAVE BEEN AND CONTINUE TO BE A NECESSARY COMPONENT OF TELECOMMUNICATION SERVICES WHICH ARE SUBJECT TO THE TELECOMMUNICATION OCCUPATION TAX; AND TO INDICATE THAT TELECOMMUNICATION RELAY SYSTEM SURCHARGES AND ENHANCED WIRELESS 911 SURCHARGES ARE NO LONGER SUBJECT TO THE TELECOMMUNICATION OCCUPATION TAX - CLERK read an ordinance, introduced by Carl Eskridge, amending Section 3.24.080 of the Lincoln Municipal Code relating to the Telecommunication Occupation Tax to further clarify that state universal service fund fees have been and continue to be a necessary component of telecommunication services which are subject to the telecommunication occupation tax; and to indicate that Telecommunication Relay System surcharges and Enhanced Wireless 911 surcharges are no longer subject to the telecommunication occupation tax; and repealing Section 3.24.080 of the Lincoln Municipal Code as hitherto existing, the first time.

ORDINANCES - 3RD READING & RELATED RESOLUTIONS (as required)

CHANGE OF ZONE 11020 - AMENDING SECTION 27.31.040 OF THE LINCOLN MUNICIPAL CODE RELATING TO PERMITTED CONDITIONAL USES IN THE B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT TO MODIFY CONDITIONAL USE REQUIREMENTS FOR THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON AND OFF THE PREMISES BY DELETING REQUIRED YARDS AND PARKING PROHIBITIONS IN A REQUIRED YARD WHEN THE BUILDING CONTAINING THE LICENSED PREMISES ABUTS A RESIDENTIAL DISTRICT AND ADDING NEW LANGUAGE REQUIRING ALL EXTERIOR DOOR OPENINGS OF THE LICENSED PREMISES TO BE LOCATED MORE THAN 100 FEET AWAY FROM ANY PARKING SPACES LOCATED IN A SIDE OR REAR YARD ADJACENT TO A RESIDENTIAL DISTRICT - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 27.31.040 of the Lincoln Municipal Code relating to permitted conditional uses in the B-2 Planned Neighborhood Business District to modify conditional use requirements for the sale of alcoholic beverages for consumption on and off the premises by deleting required yards and parking prohibitions in a required yard when the building containing the licensed premises abuts a residential district and adding new language requiring all exterior door openings of the licensed premises to be located more than 100 feet away from any parking spaces located in a side or rear yard adjacent to a residential district; and repealing Section 27.31.040 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

The ordinance, being numbered **#19572**, is recorded in Ordinance Book #27, Page .

AMENDING THE PAY SCHEDULE AND SCHEDULE OF PAY RANGES FOR EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO A PAY RANGE PREFIXED BY THE LETTER "A" BY CREATING THE CLASSIFICATION OF BUSINESS DEVELOPMENT SPECIALIST - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 1 of Ordinance No. 18967 passed August 6, 2007, relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A", by creating the job classification of "Business Development Specialist", the third time.

COOK Moved to pass the ordinance as read.

Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

The ordinance, being numbered **#19573**, is recorded in Ordinance Book #27, Page .

MENDING SECTION 2.76.135 OF THE LINCOLN MUNICIPAL CODE RELATING TO COMPENSATION PLAN; MERIT PAY PLAN TO PROVIDE THAT PART-TIME AND UNREPRESENTED EMPLOYEES COINCIDE WITH THE CIR ORDER FOR "N" AND "X" PAY RANGE EMPLOYEES, AND MAKING THE CHANGES RETROACTIVELY EFFECTIVE AUGUST 19, 2010 - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2.76.135 of the Lincoln Municipal Code relating to Compensation Plan; Merit Pay Plan to provide that part-time and unrepresented employees coincide with the CIR order for "N" and "X" pay range employees; making the changes retroactively effective August 19, 2010; and repealing Section 2.76.135 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Snyder; NAYS: Hornung; ABSENT: Carroll, Emery.

The ordinance, being numbered **#19574**, is recorded in Ordinance Book #27, Page .

AMENDING SECTION 2.76.200 OF THE LINCOLN MUNICIPAL CODE RELATING TO COMPENSATION PLAN; TEMPORARY ASSIGNMENT IN A HIGHER CLASSIFICATION TO PROVIDE THAT PART-TIME AND UNREPRESENTED EMPLOYEES AT THE MAXIMUM OF THEIR "N" OR "X" PAY RANGES RECEIVE A THREE AND ONE-HALF PERCENT INCREASE, AND MAKING THE CHANGES RETROACTIVELY EFFECTIVE AUGUST 19, 2010 - CLERK read an ordinance, introduced by Jonathan Cook, amending Section 2.76.200 of the Lincoln Municipal Code relating to Compensation Plan; Temporary Assignment in a Higher Classification to provide that part-time and unrepresented employees at the maximum of their "N" or "X" pay ranges receive a three and one-half percent increase; making the changes retroactively effective August 19, 2010; and repealing Section 2.76.200 of the Lincoln Municipal Code as hitherto existing, the third time.

COOK Moved to pass the ordinance as read.
Seconded by Eskridge & carried by the following vote: AYES: Camp, Cook, Eskridge, Snyder; NAYS: Hornung; ABSENT: Carroll, Emery.

The ordinance, being numbered **#19575**, is recorded in Ordinance Book #27, Page .

OPEN MICROPHONE - NONE

MISCELLANEOUS BUSINESS

PENDING -

CAMP Moved to extend the Pending List to July 25, 2011.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

UPCOMING RESOLUTIONS

CAMP Moved to approve the resolutions to have Public Hearing on July 25, 2011.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

ADJOURNMENT 4:27 P.M.

CAMP Moved to adjourn the City Council meeting of July 18, 2011.
Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Eskridge, Hornung, Snyder; NAYS: None; ABSENT: Carroll, Emery.

Joan E. Ross, City Clerk

Judy Roscoe, Senior Office Assistant

REGULAR MEETING

July 18, 2011

Page 384